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on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

Namibia

1. The Committee considered the fourth, fifth, sixth and seventh periodic reports of Namibia, submitted in one document (CERD/C/275/Add.1), at its 1169th and 1170th meetings (CERD/C/SR.1169-1170), held on 13 and 14 August 1996. At its 1180th meeting, on 21 August 1996, the Committee adopted the following concluding observations:

A. Introduction

2. The Committee particularly welcomes the opportunity to engage in a frank and fruitful dialogue with the Government of Namibia and expresses its satisfaction at the presence of an official of the Ministry of Justice. Although several reports were submitted in the past on behalf of Namibia by the Council for Namibia, the consideration of the present report - which may well be considered as an initial report - constitutes the first opportunity for the Committee to assess the implementation of the Convention in Namibia since its independence.

3. The Committee commends the State party for the frankness of the report and notes with appreciation its general compliance with the guidelines for the preparation of State party reports. Despite its brevity, the report contains useful information on legal and administrative measures taken to give effect to the Convention, as well as on some difficulties faced in the implementation process. Those difficulties were, however, described in broad terms without

details of the concrete steps envisaged to overcome them. Furthermore, the report was lacking economic, social and demographic indicators that would have assisted the Committee in the evaluation of the situation.

4. The Committee expresses its satisfaction with the additional information provided by the representative of the State party in response to questions asked and observations made by Committee members in the course of the discussion. In that respect, the statement by the State party's representative that the core document containing information referred to in the guidelines concerning the initial part of reports of States parties would be submitted in the near future was particularly welcomed.

5. Some members of the Committee recommend that the State party envisage the possibility of making the declaration provided for in article 14 of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

6. It is recognized that much remains to be done to overcome vestiges of a long period of subjection to colonialism and apartheid. The State party's efforts towards full enforcement of the principles and provisions enshrined in the Convention have been seriously hampered by continuing resort to a number of out-of-date - although still in force - discriminatory laws of the former Government. It is also noted that some discriminatory social attitudes still prevalent and generally tolerated in certain parts of the population are not conducive to the promotion of the implementation of the Convention.

C. Positive aspects

7. It is noted with particular satisfaction that, despite severe economic and social difficulties, important steps have been taken by the Government since independence to put an end to racial discrimination in all its forms, notably through a remarkable policy of national reconciliation.

8. It is noted with appreciation that the Constitution of Namibia includes a bill of rights which can be invoked before the Courts. Furthermore, the Racial Discrimination Prohibition Amendment Act was adopted in December 1991 and subsequent legislative measures were passed to reinforce it, such as the Land Redistribution Act and the Agricultural Reform Act. Through these constitutional and legislative provisions, certain acts of discrimination and practices of apartheid have been made criminally punishable.

9. It is also appreciated that serious efforts are being undertaken by the Master of the High Court, the Law Reform and Development Commission and the Ministry of Justice to amend or repeal out-of-date or discriminatory legal provisions. Note is taken of the establishment under the Constitution of the office of the Ombudsman with a view to the promotion and protection of human rights.

10. The policy of affirmative action in areas such as education, training and employment is particularly welcomed.

D. Principal subjects of concern

11. Concern is expressed at the subsistence of out-of-date and discriminatory laws and the persistence of practices inherited from the apartheid regime.

12. Concern is expressed at the fact that, despite affirmative measures taken to eliminate social and economic disparities, black people and mixed race people (coloureds) who comprise 95 per cent of the population, still face serious discrimination in many areas, such as access to property, education, employment, health care or housing.

13. Concern is expressed over the persistence of a dual legal system regulating important aspects of personal status, such as marriage and succession. In that regard, it is noted with concern that there remain serious discrepancies in the system applicable to white, coloured and black people under the Administration of Estate Act.

14. Concern is expressed at the extent of persistent discriminatory attitudes still prevalent in certain parts of the population and the private sector, as well as at the insufficient effectiveness of measures taken to overcome those difficulties. It is further noted with concern that there seem to exist instances of discrimination in the public sector on the grounds of ethnic identity.

15. Concern is expressed at the lack of information in the report relating to the implementation in law and practice of article 5 of the Convention, as well as on the situation of vulnerable groups, particularly the San/Bushmen.

16. Concern is expressed about apparent delays in the process of desegregation in the field of education, as well as the persistence of serious difficulties faced by black children in their access to public and private education, particularly insofar as secondary and higher education are concerned.

E. Suggestions and recommendations

17. The Committee invites the Government to include in its next periodic report information on the points raised in the present concluding observations as well as on remaining questions posed and observations made by Committee members in the course of the discussion.

18. The Committee recommends that urgent measures be taken to eliminate all remaining discriminatory laws and practices. It encourages the State party to strengthen measures taken to foster a culture that effectively protects human rights by disseminating as widely as possible information on the international human rights instruments to which it is party and on the outcome of the consideration of the present report, among the authorities responsible for the enforcement of the Convention's provisions, as well as among the general public.

19. The Committee recommends that additional steps be taken to combat racial discrimination in the fields of property, land distribution, education, housing, employment, health care and equitable distribution of resources.

Affirmative measures should thus be adopted to overcome vestiges of the past that still hamper the possibilities for black people, including vulnerable groups among them, to have access to secondary and higher education and to enjoy just and favourable conditions of work in the private sector. Similarly, additional measures should be taken in the field of land redistribution.

20. The Committee encourages efforts currently under way by the Master of the High Court and the Law Reform and Development Commission to revise the dual system governing marriage and inheritance. More generally, a systematic study of the domestic law should be undertaken to ensure its full compliance with the provisions of the Convention.

21. The Committee recommends that the State party provide, in its next periodic report, information on the number of complaints filed and judgements passed on acts of racism or racial discrimination.

22. The Committee suggests that publicity be given to the State party's seventh periodic report, as well as to the present concluding observations.

23. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

24. The Committee recommends that the State party's next periodic report be an updating report and that it address all the points raised in these concluding observations.